

REMARKS

By the present response, Applicant has amended claims 1 and 44 to further clarify the invention. Claims 1-16, 18-40, 42-51 and 53-65 remain pending in the present application.

In the Office Action, the Examiner has rejected claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43-50 and 52-63 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,143,153 (Black et al.). Claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20050027892 (McCabe et al.). Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20040199815 (Dinker et al.). Claims 31 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent No. 6,510,432 (Doyle). Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent No. 6,438,539 (Korolev et al.). Claims 42 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20030217068 (Fruchtman et al.).

Response to Arguments

In the Response to Arguments section of the Office Action, the Examiner maintains the rejections using the Black et al. reference and asserts that Black et al. discloses the limitations of the claims in the present application in column 169, lines 14-64, column 2, lines 24 and 25, columns 12 and 13, column 167, line 66 through column 168, line 48, and column 168, line 59 through column 170, line 24. However, the Examiner fails to adequately address all of Applicant's arguments. These portions merely disclose details regarding how thresholds may be set up and compared against attributes for a selected resource where if the threshold is exceeded, a user is alerted, and details regarding how thresholds may be entered. The Examiner fails to address any disclosure at Black et al. that discloses or suggests each at least one probe being embedded in the associated

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domain, as recited in the claims of the present application. Further, the Examiner fails to specifically point out where in the Black et al is disclosed or suggested an associated control module containing user selectable parameters for controlling operation of each probe, or each at least one probe dynamically receiving a new control module containing changes to the user selectable parameters, as recited in the claims of the present application. The Examiner merely provides details regarding thresholds being set and how a user is notified if an attribute of a resource exceeds these thresholds.

35 U.S.C. §102 Rejections

Claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43-50 and 52-63 have been rejected under 35 U.S.C. §102(e) as being anticipated by Black et al. Applicant re-asserts all arguments submitted in Applicant's previously filed response. Applicant respectfully traverses these rejections and provides the following additional remarks.

Regarding claims 1 and 44, Applicant submits that Black et al does not disclose or suggest the limitations in the combination of each of these claims of, inter alia, at least one probe to collect data and metrics related to performance of an associated domain, each at least one probe being embedded in the associated domain and including an associated control module containing user selectable parameters for controlling operation of each probe, the user selectable parameters comprising at least one of a type of data to be collect by the probe or a metric to be collect by the probe, or at least one base station to receive the collected data or metric from associated ones of the at least one probe. The Examiner asserts that Black et al. discloses at least one probe to collect data where each probe is embedded in associate domain and including an associated control module containing user selectable parameters for controlling operation if each probe, at column 12, line 61 through column 13, line 11, and column 167, line 14 through column 168, line 14. However, these portions merely disclose that network administrators use the NMS clients to configure network devices in each of the domains through the NMS servers, that network devices replicate changes made to their internal databases to a local NMS database that may also

replicate selected data to a central NMS database allowing other programs access to the central database, and details that network managers may dynamically select a threshold evaluation expression and that any attribute associated with an identifiable resource within the network device may be evaluated against the threshold evaluation expression. This is not user selectable parameters comprising at least one of a type of data to be collected by the probe or a metric to be collected by a probe, as recited in the claims of the present application. Black et al merely discloses that network managers may dynamically select a threshold evaluation expression that may be used to evaluate an attribute associated with an identifiable resource within the network device. According to the limitations in the claims of the present application, at least one probe collects data and metrics and user selectable parameters comprise a type of data to be collected by the probe or a metric to be collected by the probe. These limitations are neither disclosed nor suggested by Black et al. Black et al discloses the user selecting threshold values.

Further, the Examiner asserts that Black et al discloses at least one base station to receive data from associated ones from the at least one probe, in column 167, lines 49-64. However, these portions merely disclose that at the appropriate sampling frequency, the TML retrieves each resource attribute value from the corresponding application and checks the resource attribute against a threshold rule and other variables, and if the threshold rule is met then the application may do nothing or notify a SNMP Master Agent and/or a global log service thus causing a SNMP trap to be sent to appropriate NMS servers, or the event logged in one or more files within a hard drive. This is not at least one base station to receive the collected data or metric from associated ones of at least one probe, as recited in the claims of the present application. Black et al merely discloses sending a trap to an appropriate NMS server, or logging the event in a hard drive. Black et al does not disclose or suggest a base station receiving collected data or metrics from associated ones of at least one probe. Black et al merely discloses comparing resource attributes with a threshold value and in response sending a trap or storing the event in a hard drive.

Regarding claims 2-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43, 45-50 and 52-63, Applicant submits that these claims are dependent on one of independent claims 1 and 44 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Black et al. does not disclose or suggest the limitations in the combination of each of claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43, 44-51 and 53-63 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §103 Rejections

Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Black et al. in view of McCabe et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that McCabe et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 11 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Dinker et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Dinker, et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 19 of the present application. Applicant

respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 31 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Doyle. Applicant respectfully traverses these rejections and submits that these claims are dependent on independent claim 1 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Doyle does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 31 and 39 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Korolev et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Korolev et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 36 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 42 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Fruchtmann et al. Applicant respectfully traverses these rejections and submits that these claims are dependent on one of independent claims 1 and 44 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Fruchtmann et al. does not overcome the substantial defects noted previously regarding Black, et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 42 and 64 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing amendments and remarks, applicant submits that claims 1-16, 18-40, 42-51 and 53-65 are now in condition for allowance.

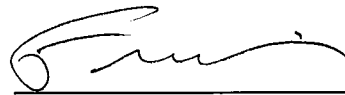
Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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